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BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KAI YAN LAI

v.

11-CV-3561 (SJ) (MDG)

ORDER ADOPTING
REPORT AND
RECOMMENDATION

WAI MON LEUNG, et al.

Defendants.

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A P P E A R A N C E S

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JOHNSON, Senior District Judge,

Plaintiff commenced this action on July 25, 2011, alleging that she was paid less than the prevailing minimum wage under the FLSA and New York Labor Law and was not paid time and one-half for those hours exceeding 40 hours per week while working as a seamstress at Raymond Dry Cleaners from June 2006 to May 2008. Complaint ("Compl.") at ¶¶ 19, 20, 30. Raymond Dry Cleaners is a laundry and dry cleaning business located at 1215 Gravesend Neck Road, Brooklyn, NY 11229 and owned and operated by defendants. *Id.* at ¶ 17. While Plaintiff alleges that she regularly worked from 9 a.m. to 7p.m., *id.* at ¶ 23, she asserts a claim for "spread of hours pay" under New York Labor Law, alleging that "[d]efendants regularly required each Plaintiff to work in excess of 10 hours a day during the term of each Plaintiff's employment." Compl. at ¶ 58. Defendants filed a Motion to Dismiss on January 10, 2012, and the Court referred the Motion to Magistrate Go for a Report and Recommendation ("Report") on January 18, 2012.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within ten days of service of the Report, any party may file written objections to the Report's findings. *See id.* Upon *de novo* review of those portions of the record to which objections are made, the district court judge may affirm or reject the recommendations. *See id.* The Court is not required to review, under a *de novo* or any other standard, the factual and legal conclusions of the magistrate as to those

portions of the Report to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's order. See 28 U.S.C. § 636(b)(1); Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

Magistrate Go issued the Report on August 31, 2012, wherein she recommended that the Court treat defendants' motion to dismiss as a motion for judgment on the pleadings and that the motion be granted. She further recommended that the Court decline to exercise supplemental jurisdiction over plaintiff's state law claims. Objections to the Report were due by September 17, 2012. To date, no objections have been filed. Accordingly, the Court adopts and affirms Judge Go's Report in its entirety.

SO ORDERED.

/s/(SJ)

DATED: September 20, 2012
Brooklyn, New York

Sterling Johnson, Jr, U.S.D.J.